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Application No. 10/672,232

Atty. Docket No. 105942-53921

Amendment and Response to Restriction Requirement

REMARKS**A. Amendments to the Specification**

Minor grammatical errors in the specification have been corrected. Support for changing "5 milligrams" to "75 milligrams" on page 5 may be found at page 4, line 16 where the preferred procyanidin content after pretreatment is "about 60 to about 75 milligrams".

B. Original Claims

Claims 6 and 7 are directed to food additives. Claim 6 comprises partially or fully defatted cocoa solids which have a certain cocoa polyphenol (CP) content and which are pretreated with sterol ester(s) and/or stanol ester(s) that are liquids at ~80°C or less. Claim 7 comprises the cocoa solids pretreated with lecithin instead of sterol ester(s) and/or stanol ester(s).

Claims 8-10 are directed to a binder syrup which comprises (i) syrup and (ii) the pretreated cocoa solids of Claim 6. Process Claim 8 covers the method for making the binder syrup. Product-by-process Claim 9(8) covers the syrup. Product Claim 10 comprises a mixture of (i) syrup and (ii) cocoa solids pretreated with certain amounts of sterol ester(s) and/or stanol ester(s) and optionally lecithin and/or a chocolate liquor.

C. Restriction

The Examiner has required restriction between the following groups of claims:

Group I - Claims 1-5 directed to a process for conserving an antioxidant, classified in class 426, subclass 54;

Group II - Claims 6-10 directed to a food additive, i.e., a binder syrup and a method of making the binder syrup, classified in class 426, subclass 658;

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Group III - Claims 11-19 directed to a process for preparing a dry, ready-to-eat food and a granola bar, classified in class 426, subclass 660; and

Group IV - Claims 20-26 directed to a process for preparing a chocolate, classified in class 426, subclass 631.

D. Election

Applicants elect the claims of Group II, i.e., Claims 6-10.

E. Amendments

Claims 11-26 directed to bars, chews, and methods for their preparation have been canceled and rewritten as dependent claims that depend directly or indirectly on elected Claim 10 directed to the binder syrup. The new dependent claims are linked with the elected binder syrup claims because both the granola bar and the chocolate chew contain a binder syrup comprising a mixture of (i) syrup and (ii) cocoa solids pretreated with about 9% to about 90% of sterol ester(s) and/or stanol ester(s) and optionally with up to about 5% lecithin and/or up to about 20% of a chocolate liquor. The newly presented claims should therefore be examined with the elected claims.

The non-elected claims of Group I, i.e., Claims 1-5, have been canceled.

F. Closing

It is respectfully requested that new Claims 27-44 be examined with elected Claims 6-10.

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G. Correspondence and Fees

In the event that any fees are required, authorization is hereby given to charge Deposit Account No. 03-3839. Please address all correspondence to Intellectual Property Docket Administrator, Gibbons, Del Deo, Dolan, Griffinger & Vecchione, One Riverfront Plaza, Newark, NJ 07102-5497. Should there be any questions or other matters that may be resolved by a telephone call, the Examiner is invited to contact the undersigned attorney at the number below.

September 14, 2006

Respectfully submitted,

Gibbons, Del Deo, Dolan, Griffinger & Vecchione

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